

## **District II Advisory Board Minutes**

**April 1, 2013**

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The District II Advisory Board meeting was held at 6:30 p.m. at Fire Station #20 located at 2255 S. Greenwich Road. CM Meitzner was in attendance, (7) board members, and (4) staff attended.

### **Members Present**

David Babich  
Dale Carter  
Nick Howell  
Blaine Knott  
Sheila Tigert  
Max Weddle  
Alexandria Webb

### **Members Absent**

Brian Carduff  
April Leason  
Tom Roth  
Joe Yager

### **Staff Present**

Alyssa McMullin – Management Fellow  
Captain Nonken – Wichita Fire Department  
Officer Sparks – Wichita Police Department  
Jess McNeely – Planning Department

## **ORDER OF BUSINESS**

### **CALL TO ORDER**

The meeting was called to order at 6:30 p.m.

### **APPROVAL OF MINUTES AND AGENDA**

- **April Agenda approved (7-0)**
- **March Minutes approved (7-0)**

### **PUBLIC AGENDA**

#### **1. Off-Agenda Items**

**None.**

**Recommended Action:** Receive and file

### **STAFF REPORT**

#### **2. Community Police Report**

**Officer Sparks** provided information pertaining to Police activities in District II. Officer Sparks reported that there was a trend of robberies in the Central and Rock area last Thursday and Friday. There were also multiple larcenies and non-residential break-ins. An individual was held up at gun-point during an auto theft, but the car has been recovered. The individual responsible for the

crime opened fire on police officers and was fired upon in return; he is now in critical condition but is expected to recover. Additionally, Officer Sparks reported on an incident that occurred at Club Rodeo on a recent Thursday night after a riot broke out at closing time. Three individuals were taken into custody for causing fights or refusing to leave and another two individuals who were armed were taken into custody after shots were fired into the air in the parking lot. A smoke canister was used to evacuate the club.

**3. Community Fire Report**

**Captain Nonken** provided information pertaining to Fire Service calls in District II. Captain Nonken reported that District II was relatively quiet for fire services last month, citing the occurrence of one house fire, which is still under investigation. Additionally, the fire department is starting its building inspections this year and will be targeting apartment complexes.

**Recommended Action:** Receive and file

**NEW BUSINESS**

**4. CUP2013-00006**

**Jess McNeely, Planning Department**, presented information on the request for a conditional use permit to allow for a proposed use for a commercial development and indoor sports facility, generally located east of Greenwich and north of K-96.

**BACKGROUND:** The applicant requests approval of the K96 and Greenwich North Commercial Community Unit Plan (“CUP”), DP-333. The 98 acre site is zoned SF-5 Single-family Residential (“SF-5”) but was approved for LI Limited Industrial (“LI”) zoning in 2000 and 2004, subject to platting within one year. The applicant was approved for several platting time extensions through April 2014. The applicant is currently in the platting process and intends to maintain the LI zoning previously approved. The Wichita-Sedgwick County Unified Zoning Code (“UZC”) does not require a CUP for LI zoned sites. However, the applicant requests this CUP in order to provide a unified and well planned commercial development.

The site is located at the northeast corner of K-96 and North Greenwich. Property north of the site, across 27th Street North, is zoned LI, LC Limited Commercial (“LC”) and MF-18 Multi-family Residential (“MF-18”) and is undeveloped. Property south of the site, across K-96, is approved for LC zoning and a CUP, and is undeveloped. Property east of the site includes undeveloped LI zoned land to the north, an SF-5 Single-family Residential (“SF-5”) zoned subdivision, and an SF-5 zoned church to the south. West of the site, across Greenwich, includes an LI zoned commercial development and an outdoor sports facility. Southwest of the site, at the southwest corner of K-96 and Greenwich, is an LI and LC zoned commercial CUP.

The CUP is broken into 15 Parcels and reserves. Reserves will serve as buffers from residential zoning, landscaped areas, storm water detention and sign placement. The applicant proposes all permitted uses in the LI zoning district except for: Correctional Facility, Correctional Placement Residences (General and Limited), Pawn Shops and Sexually Oriented Business in the City. The applicant proposes dedicated streets within the CUP and access control to Greenwich per City guidelines. The CUP shows one dedicated street intersection at Greenwich and one additional full movement opening to Greenwich. Access control to 27th Street North is not specified. All large

parcels (larger than 2 acres) have a maximum building coverage of 30%, smaller ones have a maximum building coverage of 40%. Building heights are limited to 80 feet (consistent with LI zoning limitations) on most parcels except that Parcel 2 (at the northwest corner) is permitted 100 feet, and Parcels 10 and 15 (closest to residential zoning) are limited to 50 feet. Screening is proposed on the south side of 27th Street North adjacent to the rear of the building proposed for Parcel 3.

Screening from the Fairmont Residential Addition (to the east) is proposed as a masonry wall or two offset rows of 8-foot tall evergreens spaced 20-foot on center. All screening otherwise is required to meet UZC requirements; the applicant proposes preserving the existing hedgerow along the east property line.

Signage restrictions prohibit flashing, moving, portable, balloon and roof signs. Pole and monument signs are proposed to not exceed the Sign Code limitation of .8 square feet of sign area per linear foot of arterial street frontage, and .5 square feet of area per linear foot of local street frontage. The CUP proposes exceeding the Sign Code 25-foot height limitation with four 60-foot signs along K-96 and three 30-foot signs along Greenwich. The CUP allows off-site advertising for facilities located within the Star Bond District at K-96 and Greenwich. The remainder of the CUP is consistent with most City CUPs and the UZC requirements regarding signage, landscaping, screening, cross-lot circulation, pedestrian circulation, architectural consistency, parking and lighting.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP be APPROVED, subject to platting within one-year and the following conditions:

1. General Provision 10.k. shall be added to include: No building signs shall face residential zoning. Monument, pole or pylon signs shall not be within 300 feet of residential zoning.
2. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site, across 27th Street North, is zoned LI, LC and MF-18 and is undeveloped. Property south of the site, across K-96, is approved for LC zoning and a CUP, and is undeveloped. Property east of the site includes undeveloped LI zoned land to the north, an SF-5 zoned subdivision, and an SF-5 zoned church to the south. West of the site, across Greenwich, includes an LI zoned commercial development and an outdoor sports facility. Southwest of the site, at the southwest corner of K-96 and Greenwich, is an LI and LC zoned commercial CUP.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently approved for LI zoning (subject to platting) and could be developed with all uses permitted in the LI district. The proposed CUP is more restrictive than LI zoning and includes features to ensure compatibility with surrounding properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed CUP does not remove restrictions, but rather places more restrictions on the approved LI zoning for this site. Nearby property could be most affected by increased traffic to this site, and will be affected by increased light, noise, trash and other

impacts of commercial development. The proposed CUP mitigates those impacts with buffer spaces, screening, and other limitations.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide Map depicts the subject site as an “Employment/Industry Center.” The Employment/Industry Center category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. This request meets the Commercial Locational Guidelines of the Comprehensive Plan in that it is at an arterial street intersection along with other commercial uses, it does not feed commercially generated traffic onto residential streets and it has site design features to mitigate impact on surrounding uses.
5. Impact of the proposed development on community facilities: The project will generate increased traffic and demand for City services at this site. However, the Comprehensive Plan anticipates commercial development to occur at arterial and highway intersections such as this location.

#### **DAB Members Questions/Concerns**

- Do any of the streets shown in the plan already exist? No, the entire property is vacant
- Will this come back before the DAB after improvements to Greenwich are made? No, this is likely the last time this specific zoning case will be before the DAB.
- Several concerns about the fate of heavy bicycle traffic along Greenwich. The CUP includes a pedestrian circulation system that will connect to bike paths
- Are building height requirements different in LI zoning than in SF-5 zoning?
- Will the median on Woodspring include landscaping? It is platted as reserve, so it will likely include landscaping. Concerns were brought up about the cost for landscaping in the face of the current drought.
- Will there be signage on the far east side (closest to residential areas)? There will not be signage within 300 feet of residential zoning

#### **Citizen Concerns/Comments**

- Concerns that the property backs up the citizen’s backyard – citizen mentioned concerns about a building or sign being immediately behind her house. The company representative explained that the piece of property immediately behind her house will be a drainage area (with a drainage plan having been submitted and approved by the City) and that signage must be 300 feet from residential zoning. Additionally, the fence and hedgerow behind her backyard will remain there and additional screening in the form of trees will be added.

**Recommended Action:** The DAB voted (7-0) to recommend approval based on the conditions outlined in the staff report.

3. **CON2013-00003**

**Jess McNeely, Planning Department**, presented information on the request for a conditional use permit to allow for a “night club in the city” generally located east of Rock Road and north of Central Ave at 550 N. Rock Road.

**BACKGROUND:** The LC limited Commercial (“LC”) zoned site is part of a commercial strip that in the past housed such businesses (1980s) as “The Grape” and “The Shadow,” both which provided entertainment, food and cereal malt beverages or alcoholic liquor. The applicants’ propose to provide live music (entertainment), food and cereal malt beverages or alcoholic liquor under the business named “Ernie Biggs Dueling Pianos.” The Unified Zoning Code (UZC, Sec.II-B.9.b.) defines a Nightclub in the City (nightclub) as “...an establishment located in the City that provides entertainment, which may include the provision of dancing by employees or patrons, and where cereal malt beverage or alcoholic liquor (drinks) are offered, consumed or served to the public or its members, and which may or may not serve food.” When a nightclub is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District, approval of a Conditional Use is required; UZC, Sec.III-D6.w. The site is located within 300 feet of residential zoning. There is no history of a Use Exception or a Conditional Use that would have allowed what is now considered a nightclub on the site. Up until November 23, 2010, the site had maintained an Entertainment Establishment license. When the current applicants applied for an Entertainment Establishment license on January, 17, 2013, they were denied the license, due to the site’s nightclub use losing its legal non-conforming status. The loss of the site’s legal non-conforming nightclub status is based on the more than two- year absence of Entertainment Establishment license and the lack of a Use Exception or Conditional Use permitting a night when located within 300 feet of residential zoning. The applicant is applying for a Conditional Use for a nightclub because it is located within 300 feet of residential zoning. If the Conditional Use is approved, the applicant will be able to reapply for the renewal of the Entertainment Establishment license.

The proposed night club is one of several tenants in the LC zoned commercial strip building, located north of Central Avenue on the east side Rock Road. Other tenants include (but not limited to): a barber shop, a realtors office, a tailor’s/alternation shop, a tanning salon, and a jewelry store. An LC zoned Starbucks coffee shop abuts the north side of the site. Further south, across Rock and Central Avenue, there are: a LC zoned bank, restaurant (DER), retail building and a commercial strip building. LC zoned medical offices and offices abut the east side of the site. MF-18 Multi-Family Residential (“MF-18”) zoned condos abut the north side of the site. Further north and east of the site, beyond the condos and the medical/office, there are SF-5 Single-Family Residential (“SF-5”) zoned residences and drainage. Multi-tenant LC zoned commercial buildings, a bank, a restaurant and a fast food restaurant are located west of the site, across Rock Road. The commercial buildings have restaurants, retail, office and maybe a bar. B Multi-Family Residential (“B”) zoned apartments are also located west of the site across Rock. A LC zoned Dillon’s, a Chili’s restaurant (DER) and a Krispy Kreme donut shop are located southwest of the site, across Rock and Central.

The applicant’s site plan shows the 7,763-square feet the night club will occupy, as well as the square footage of the tenants, the parking and existing drives onto Rock Road.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

1. No outside loudspeakers or entertainment are permitted.
2. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies

set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The Rock Road and Central Avenue intersection has LC zoned commercial and office uses located on all four corners, including the LC subject site located off of the northeast corner of Rock and Central. The proposed night club is one of several tenants in the LC zoned commercial strip building, located north of Central Avenue on the east side Rock Road. Other tenants include (but not limited to): a barber shop, a realtors office, a tailor's/alternation shop, a tanning salon, and a jewelry store. An LC zoned Starbucks coffee shop abuts the north side of the site. Further south, across Rock and Central Avenue, there are: a LC zoned bank, a restaurant (DER), a retail building and a commercial strip building. LC zoned medical offices and offices abut the east side of the site. MF-18 Multi-Family Residential ("MF-18") zoned condos abut the north side of the site. Further north and east of the site, beyond the condos and the medical/office, there are SF-5 Single-Family Residential ("SF-5") zoned residences and drainage. Multi-tenant LC zoned commercial buildings, a bank, a restaurant and a fast food restaurant are located west of the site, across Rock Road. The commercial buildings have restaurants, retail, office and maybe a bar. B Multi-Family Residential ("B") zoned apartments are also located west of the site across Rock. A LC zoned Dillon's, a Chili's restaurant (DER) and a Krispy Kreme donut shop are located southwest of the site, across Rock and Central.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which accommodates office and retail uses. Approval of a Conditional Use would permit the site to continue to be used as a nightclub removing its non-conforming status.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Typical concerns about nightclubs include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the adjacent SF-5 zoned residences. These concerns have been present at this site, since the 1980s.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities.

The UZC requires a Conditional Use for a nightclub when it is located within 300 feet of a Church or Place of Worship, public Park, public or parochial School or residential zoning District. The site is not currently permitted for a nightclub. Approval of a Conditional Use for a nightclub at this site would not introduce a new use to the area. The site has housed a nightclub for years (1980s), but there is no history of a Use Exception or a Conditional Use that would have allowed what is now considered a nightclub on the site. The loss of the site's legal non-conforming nightclub status is based on the more than 2 year absence of Entertainment Establishment license and the lack of a Use Exception or Conditional Use permitting a nightclub when located within 300 feet of residential zoning.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed nightclub is located within an existing commercial development, with direct access onto the Rock Road arterial. There are no proposed physical changes to the site. Existing commercial buildings are adjacent and abutting its west, south and east sides, allowing some buffering for adjacent SF-5 zoned single-family residences. The abutting MF-18 north property is developed as residential condos.

5. Impact of the proposed development on community facilities: It is possible that approval of this request could result in an increased demand for police services.

#### **DAB Members Questions/Concerns**

- Is the club subject to the rule that requires 50% of sales to be from food? Since it is classified as a nightclub, it is not subject to that requirement.

**Recommended Action:** The DAB voted (7-0) to recommend approval based on the conditions outlined in the staff report.

#### **4. Updates, Issues, and Report**

**David Babich** provided an update on the CDBG Review Committee. The committee recently approved CDBG (Community Development Block Grant) funding for three categories of services.

- **CDBG/Women's Services**  
The grant review committee recommended Stepping Stone at \$26,000, which is current 2012-13 level; funding Catholic Charities at \$105,036 amount requested (which is less than requested and received last year) and funding Y.W.C.A. at \$143,964, which is the balance of anticipated funds, and less than requested but still an increase over last year.
- **Youth Crime Prevention**  
Rainbows United was approved \$23,000 and the YMCA after-school program was awarded \$102,000
- **Youth Recreation and Enrichment**  
Rainbows at \$23,093, which is the full amount of their request, and funding YMCA at \$101,907,

With no further business, the meeting was adjourned at 7:30 p.m. The next **DAB II** Meeting will be May 6, 2013.

